Reprinted
April 15, 2009

ENGROSSED
SENATE BILL No. 448

DIGEST OF SB 448 (Updated April 14, 2009 5:54 pm - DI 113)

Citations Affected: IC 4-35; IC 6-1.1; IC 6-2.5; IC 6-3.1; IC 14-8; IC 14-23; IC 36-7; noncode.

Synopsis: Various tax matters. Reallocates a portion of the slot machine revenues distributed for thoroughbred purposes by decreasing money primarily used for purses and increasing money for the breed development fund. Provides that enterprise information technology equipment purchased after June 30, 2009, by an eligible business is exempt from personal property taxation for a period agreed to by a designating body (a county council or municipal fiscal body). Provides that before January 1, 2013, a designating body may adopt a resolution providing the exemption to a particular business. Requires that the designating body and the eligible business enter into an agreement concerning the property tax exemption, which must specify the

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Effective: January 1, 2008 (retroactive); July 1, 2008 (retroactive); January 1, 2009 (retroactive); upon passage; July 1, 2009.

Charbonneau, Hershman, Broden,
Zakas, Landske, Alting, Tallian,
Mishler, Waterman
(HOUSE SPONSORS — AUSTIN, BORROR, SOLIDAY, NIEZGODSKI)

January 14, 2009, read first time and referred to Committee on Tax and Fiscal Policy.
February 12, 2009, amended, reported favorably — Do Pass.
February 16, 2009, read second time, ordered engrossed.
February 17, 2009, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 3, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.
April 6, 2009, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
April 9, 2009, amended, reported — Do Pass.
April 14, 2009, read second time, amended, ordered engrossed.

Digest Continued

duration of the property tax exemption and may specify that a transferee is entitled to the exemption on the same terms as the transferor. Specifies that the exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a resolution granting an exemption. Defines enterprise information technology equipment as: (1) hardware supporting computing, networking, or data storage function, including servers and routers; (2) networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions; and (3) generators and other equipment used to ensure an uninterrupted power supply to such hardware and networking systems. Provides that enterprise information technology equipment does not include computer hardware designed for single user, workstation, or departmental level use. . Defines an eligible business to be an entity that meets the following requirements: (1) the entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities; (2) the entity is located in a facility or data center in Indiana; (3) the entity invests in the aggregate at least $10,000,000 in personal property and real property in Indiana after June 30, 2009; and (4) the average employee wage of the entity is at least 125% of the county average wage for each county in which the entity conducts business operations. Provides that a determination to establish an economic revitalization area after June 30, 2009, by a designating body in a county containing a consolidated city must be approved or rejected by the county fiscal body if the designating body's resolution awards a deduction for the redevelopment or rehabilitation of real property. Requires the distressed unit appeal board to make a determination concerning a petition for relief from the circuit breaker law within 30 days after a petition is filed. Permits an extension of the period if both the board and the fiscal body submitting the petition agree to the extension. Provides for approval of petitions pending before the board. Provides that for property taxes first due and payable in 2009 there is no penalty for a late payment of taxes if the taxes are paid within 30 days after the due date. Exempts certain aircraft from state gross retail and use taxes. Extends the sales tax exemption available in current law for purchase of certain communications equipment to a person that furnishes cable or satellite television services, cable or satellite radio services, or Internet access services. Provides that the term "alternative fuel" includes biodiesel for purposes of the Hoosier alternative fuel vehicle manufacturer tax credit. Requires the state personnel department to reclassify the job category and skill level applying to district foresters retroactive to July 1, 2008. Provides that district foresters are entitled to back pay for 2008-2009. Provides that property tax exempt properties in an economic improvement district may be subject to special assessments. Specifies that board for a district consisting of only property owner must include the property owner. Clarifies the status of assessments for purposes of the Internal Revenue Code. Authorizes bonding for an economic improvement project. Provides that taxing units expecting to receive an economic benefit from an economic improvement district project may pledge special assessments and other legally available funds for the repayment of bonds or lease rentals for certain projects. Specifies that the pledge does not create debt for the taxing unit. Provides for a supplemental distribution to a certified technology park in which a business ceases to operate after the establishment of the certified technology park. Provides that the city of Westfield may establish a professional sports and convention development area before January 1, 2010. Extends the statute governing professional sports and conventional development areas for cities or counties outside Marion county to December 31, 2041. Establishes an interim study committee on horse racing. Repeals a 2008 noncode provision concerning district foresters.

Reprinted
April 15, 2009

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~
Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.
Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

ENGROSSED
SENATE BILL No. 448

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-35-7-12, AS AMENDED BY P.L.146-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) Except as provided in subsections (j) and (k), a licensee shall before the fifteenth day of each month devote to the gaming integrity fund, horse racing purses, and to horsemen's associations an amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at the licensee's racetrack. The Indiana horse racing commission may not use any of this money for any administrative purpose or other purpose of the Indiana horse racing commission, and the entire amount of the money shall be distributed as provided in this section. A licensee shall pay the first two hundred fifty thousand dollars ($250,000) distributed under this section in a state fiscal year to the commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the commission, a licensee shall distribute the remaining

money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) ~~Sixty~~ **Forty** percent ~~(60%)~~ **(40%)** for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) ~~Forty~~ **Sixty** percent ~~(40%)~~ **(60%)** to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Fifty percent (50%) for the following purposes:

(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.

(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.

(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.

(3) Eight percent (8%) for quarter horse purposes as follows:

(A) Seventy percent (70%) for the following purposes:

(i) Ninety-five percent (95%) for quarter horse purses.

(ii) Five percent (5%) to the horsemen's association

representing quarter horse owners and trainers.

(B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(e) Money distributed under subsection (b)(1) and (b)(2) shall be allocated as follows:

(1) Forty-six percent (46%) to the horsemen's association representing thoroughbred owners and trainers.

(2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.

(3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:

(1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the money by the horsemen's association. The report must include information as required by the commission.

(2) The horsemen's association must register with the Indiana horse racing commission.

(g) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.

(h) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:

(1) issue a warning to the licensee;

(2) impose a civil penalty that may not exceed one million dollars

($1,000,000); or

(3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.

(i) A civil penalty collected under this section must be deposited in the state general fund.

(j) For a state fiscal year beginning after June 30, 2008, and ending before July 1, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) eighty-five million dollars ($85,000,000).

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

(k) For a state fiscal year beginning after June 30, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) the amount dedicated to the purposes described in subsection (b) in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

SECTION 2. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44. (a) As used in this section, "designating body" means:**

(1) in the case of a county, the fiscal body of the county; or

(2) in the case of a municipality located in a county that does not contain a consolidated city, the fiscal body of the municipality.

(b) As used in this section, "eligible business" means an entity that meets the following requirements:

(1) The entity is engaged in a business that operates one (1) or more facilities dedicated to computing, networking, or data storage activities.

(2) The entity is located in a facility or data center in Indiana.

(3) The entity invests in the aggregate at least ten million dollars ($10,000,000) in real and personal property in Indiana after June 30, 2009.

(4) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.

(c) As used in this section, "enterprise information technology equipment" means the following:

(1) Hardware supporting computing, networking, or data storage function, including servers and routers.

(2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.

(3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).

The term does not include computer hardware designed for single user, workstation, or departmental level use.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) As used in this section, "qualified property" means enterprise information technology equipment purchased after June 30, 2009.

(g) Before adopting a final resolution under subsection (h) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that qualified property owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that qualified property owned by a particular eligible business is exempt from property taxation, the designating

body shall publish notice of the adoption and the substance of the declaratory resolution in accordance with IC 5-3-1 and file a copy of the notice and the declaratory resolution with each taxing unit in the county. The notice must specify a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the notice and the declaratory resolution with the officers of the taxing units who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date for the public hearing. After the designating body considers the testimony presented at the public hearing, the designating body may adopt a second and final resolution under subsection (h). The second and final resolution under subsection (h) may modify, confirm, or rescind the declaratory resolution.

(h) Before January 1, 2013, a designating body may after following the procedures of subsection (g) adopt a final resolution providing that qualified property owned by a particular eligible business is exempt from property taxation. In the case of a designating body that is a county fiscal body, the exemption applies only to qualified property that is located in unincorporated territory of the county. In the case of a designating body that is a municipal fiscal body, the exemption applies only to qualified property that is located in the municipality. The property tax exemption applies to the qualified property only if the designating body and the eligible business enter into an agreement concerning the property tax exemption. The agreement must specify the duration of the property tax exemption. The agreement may specify that if the ownership of qualified property is transferred by an eligible business, the transferee is entitled to the property tax exemption on the same terms as the transferor. If a designating body adopts a final resolution under this subsection and enters into an agreement with an eligible business, the qualified property owned by the eligible business is exempt from property taxation as provided in the resolution and the agreement.

(i) If a designating body adopts a final resolution and enters into an agreement under subsection (h) to provide a property tax exemption, the property tax exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a final resolution under subsection (h).

SECTION 3. IC 6-1.1-12.1-2.5, AS AMENDED BY P.L.154-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) If a designating body finds that an area in

its jurisdiction is an economic revitalization area, it shall either:

(1) prepare maps and plats that identify the area; or

(2) prepare a simplified description of the boundaries of the area by describing its location in relation to public ways, streams, or otherwise.

(b) After the compilation of the materials described in subsection (a), the designating body shall pass a resolution declaring the area an economic revitalization area. The resolution must contain a description of the affected area and be filed with the county assessor. A resolution adopted after June 30, 2000, may include a determination of the number of years a deduction under section 3, 4.5, or 4.8 of this chapter is allowed.

(c) After approval of a resolution under subsection (b), the designating body shall do the following:

(1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.

(2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the economic revitalization area is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement containing substantially the same information as a statement of benefits filed with the designating body before the hearing required by this section under section 3, 4.5, or 4.8 of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. After considering the evidence, the designating body shall take final action determining whether the qualifications for an economic revitalization area have been met and confirming, modifying and confirming, or rescinding the resolution. **Except as provided in subsection (f),** this determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

(d) A person who filed a written remonstrance with the designating body under this section and who is aggrieved by the final action taken may, within ten (10) days after ~~that~~ **the** final action **of the designating body or the fiscal body under subsection (f),** initiate an appeal of that

action by filing in the office of the clerk of the circuit or superior court a copy of the order of the designating body **or fiscal body** and the person's remonstrance against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of appeal that the court may hear is whether the proposed project will meet the qualifications of the economic revitalization area law. The burden of proof is on the appellant.

(e) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal, and may confirm the final action of the designating body **or fiscal body** or sustain the appeal. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

(f) A determination made under subsection (c) after June 30, 2009, by the designating body of a county containing a consolidated city must be approved or rejected by the county fiscal body if the resolution awards a deduction under section 3 of this chapter for the redevelopment or rehabilitation of real property. The decision of the county fiscal body to approve or reject the designating body's determination is final, except that an appeal may be taken and heard as provided under subsections (d) and (e).

SECTION 4. IC 6-1.1-12.1-3, AS AMENDED BY P.L.99-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of

the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). **Subject to section 2.5(f) of this chapter,** the designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years. For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been

redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.

(2) Country club.

(3) Massage parlor.

(4) Tennis club.

(5) Skating facility (including roller skating, skateboarding, or ice skating).

(6) Racquet sport facility (including any handball or racquetball court).

(7) Hot tub facility.

(8) Suntan facility.
(9) Racetrack.
(10) Any facility the primary purpose of which is:
(A) retail food and beverage service;
(B) automobile sales or service; or
(C) other retail;
unless the facility is located in an economic development target area established under section 7 of this chapter.
(11) Residential, unless:
(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
(B) the facility is located in an economic development target area established under section 7 of this chapter; or
(C) the area is designated as a residentially distressed area.
(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:
(A) was eligible for tax abatement under this chapter before July 1, 1995;
(B) is described in IC 7.1-5-7-11; or
(C) operates a facility under:
(i) a beer wholesaler's permit under IC 7.1-3-3;
(ii) a liquor wholesaler's permit under IC 7.1-3-8; or
(iii) a wine wholesaler's permit under IC 7.1-3-13;
for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination of the following:
(1) Elderly persons who are predominately low-income or moderate-income persons.
(2) Persons with a disability.
A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.

SECTION 5. IC 6-1.1-20.3-7, AS AMENDED BY P.L.146-2008, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the fiscal body of a distressed political subdivision submits a petition under section 6 of this chapter, the board shall review the petition and assist in establishing a financial plan for the distressed political subdivision.

(b) In reviewing a petition submitted under section 6 of this chapter, the board:

(1) shall consider:

(A) the proposed financial plan;

(B) comparisons to similarly situated political subdivisions;

(C) the existing revenue and expenditures of political subdivisions in the county; and

(D) any other factor considered relevant by the board; **and**

(2) may establish subcommittees or temporarily appoint nonvoting members to the board to assist in the review.

(c) Subject to subsection (d), the board shall issue a final written determination concerning a petition not more than thirty (30) days after the petition is submitted to the board under section 6 of this chapter. In the determination, the board may do any of the following:

(1) Deny the relief requested in the petition.

(2) Grant the relief requested in the petition in whole or in part and approve the financial plan included with the petition with or without modifications.

(3) Grant any other relief permitted under this chapter.

(d) The fiscal body of a distressed political subdivision may request in writing one (1) extension of the time in which the board may issue a final determination under this chapter. To be effective, an extension must be approved by the fiscal body before the elapse of the period being extended. If a fiscal body requests an extension under this subsection, the board has an additional thirty (30) days to make a final determination concerning a petition submitted under section 6 of this chapter.

(e) If the board fails to make a determination concerning a petition submitted under section 6 of this chapter within the time permitted under subsection (c), as extended (if applicable) under subsection (d), the distressed political subdivision shall be treated as entitled to the relief requested in the petition to the same extent as if the board had authorized the relief in a final determination. For purposes of this chapter, the financial plan included with the petition shall be treated as being established by the board and

agreed to by the fiscal body of the distressed political subdivision submitting the petition.

SECTION 6. IC 6-1.1-37-10, AS AMENDED BY P.L.3-2008, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 10. (a) Except as provided in **subsection (i) and** sections 10.5 and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency. **Except as provided in subsection (i),** the penalty is equal to an amount determined as follows:

(1) If:

(A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If:

(A) an installment of personal property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates of the first and second installments in each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8.1, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) Subject to subsections (g) and (h), a payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date by the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in United States first class mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) postmarked by the United States Postal Service as mailed on or before the due date;

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received by the express parcel carrier on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic funds transfer and the taxpayer's bank account is charged on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date

printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

(1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) makes a duplicate payment within thirty (30) days after the date the person is notified that the payment was not received.

(i) For property taxes first due and payable in 2009 with respect to a homestead (as defined in IC 6-1.1-12-37(a)(2)), the penalty under subsection (a) is equal to an amount determined as follows:

(1) If:

(A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

there is no penalty.

(2) If subdivision (1) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

SECTION 7. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are

exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) This subsection applies only **to aircraft acquired** after June 30, 2008. **Except as provided in subsection (f),** a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the **gross** lease revenue derived from leasing **or rental of** the aircraft is equal to or greater than

~~(1) ten percent (10%) of the greater of the original cost or~~ the book value of the aircraft, ~~if the original cost of the aircraft was less than one million dollars ($1,000,000);~~ or

~~(2)~~ seven and five-tenths percent (7.5%) of:

(1) the greater of the ~~original cost or the~~ book value of the aircraft, ~~if the original cost of the aircraft was at least one million dollars ($1,000,000).~~ **as published in the Vref Aircraft Value Reference guide for the aircraft; or**

(2) the net acquisition price for the aircraft.

However, if a person acquires an aircraft for less than the Vref Aircraft Value reference guide book value, the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the

transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment. The department may request that the person submit to the department supporting documents showing that the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and any other documents that will assist the department in determining whether an aircraft is exempt from state gross retail tax under this subsection.

(f) The department shall not assess state gross retail or use taxes on an acquisition under subsection (e) if the person does not meet the minimum lease or rental requirements of subsection (e) in a tax year if the person is unable to meet the lease or rental requirements because of:

(1) economic conditions;

(2) shortage of key personnel;

(3) weather;

(4) the aircraft being out of service for extended maintenance;

(5) regulatory requirements of the Federal Aviation Administration; or

(6) other conditions acceptable to the department.

(g) A person is required to meet the requirements of subsection (e) until the aircraft has generated sales tax on rental or lease income:

(1) in an amount equal to the amount of the original sales tax exemption; or

(2) for a period of not more than thirteen (13) years.

If the aircraft is sold by the person before meeting the requirements of this section and before the sale the aircraft was exempt from gross retail tax under subsection (e), the sale of the aircraft must not result in the assessment or collection of gross retail tax for the period from the date of acquisition of the aircraft by the person to the date of the sale of the aircraft by the person.

(h) A person shall remit gross retail tax on taxable lease and rental transactions under subsection (e) regardless of how long the aircraft is leased or rented.

(i) This subsection applies only to an aircraft acquired after December 31, 2007. A transaction in which a person acquires an aircraft to rent or lease to another person predominantly for use in public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.) by the other person or an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue

thresholds applicable to an exemption under subsection (e) with respect to the person's leasing or rental of the aircraft in order to receive or maintain an exemption under this subsection. In order to maintain an exemption under this subsection, the department may require only that the person submit annual reports showing that the aircraft is predominantly used to provide public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.).

(j) The exemptions allowed under subsections (e) and (i) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.

SECTION 8. IC 6-2.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is:

(A) classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; ~~or~~

(B) mobile telecommunications switching office equipment, radio or microwave transmitting or receiving equipment, including, without limitation, towers, antennae, and property that perform a function similar to the function performed by any of the property described in clause (A);

or

(C) a part of a national, regional, or local headend or similar facility operated by a person furnishing cable television services, cable radio services, satellite television or radio services, or Internet access services; and

(2) the person acquiring the property:

(A) furnishes or sells intrastate telecommunication service in a retail transaction described in IC 6-2.5-4-6; **or**

(B) furnishes cable television or radio service or satellite television or radio service and uses the property to provide telecommunications services.

SECTION 9. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel" means:

(1) methanol, denatured ethanol, and other alcohols;

(2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;
(3) natural gas;
(4) liquefied petroleum gas;
(5) hydrogen;
(6) coal-derived liquid fuels;
(7) non-alcohol fuels derived from biological material;
(8) P-Series fuels; ~~or~~
(9) electricity; **or**
(10) biodiesel (as defined in IC 6-3.1-27-1).

SECTION 10. IC 14-8-2-72.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 72.5. "District forester", for purposes of IC 14-23-10, means an employee of the department who:**
(1) holds a bachelor of science degree in forest management or a closely related forestry curriculum from a college or university accredited by the Society of American Foresters; and
(2) is responsible for the administration of IC 6-1.1-6 within designated counties.

SECTION 11. IC 14-8-2-266.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 266.9. "State staffing table", for purposes of IC 14-23-10, means a position classification plan and salary and wage schedule adopted by the state personnel department under IC 4-15-1.8-7.**

SECTION 12. IC 14-23-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]:

Chapter 10. Compensation of District Foresters

Sec. 1. This chapter applies only to salaries paid for pay periods beginning after June 30, 2008.

Sec. 2. For pay periods beginning after June 30, 2008, the state personnel department shall reclassify the job category and skill level of the position of district forester as follows:
Job Category Executive, Scientific, and Medical (ESM)
Skill Level 7.

Sec. 3. The state personnel department shall apply the years of experience accrued by a district forester under the job category and skill level that applied to the district forester before the

effective date of the reclassification required by this chapter to the district forester's new classification when computing the salary due to the district forester under the new classification.

Sec. 4. Notwithstanding the salary and wage schedule applying to a district forester on July 1, 2008, under the state staffing table, a district forester is entitled to back pay in an amount equal to the difference between:

(1) the amount of salary that would have been paid to the district forester for the period beginning July 1, 2008, and ending June 30, 2009, if the district forester's salary had been computed in accordance with the reclassification of the district forester's job category and skill level required by section 2 of this chapter; minus

(2) the salary actually paid to the district forester for the period beginning July 1, 2008, and ending June 30, 2009.

SECTION 13. IC 36-7-4-1210.5, AS AMENDED BY P.L.39-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1210.5. (a) ADVISORY. As used in this section, "municipality" refers to the most populous municipality in the jurisdiction of the plan commission.

(b) ADVISORY. This section applies to a plan commission operating under a joinder agreement:

(1) in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790); and

(2) containing:

(A) a township having a population of more than eighteen thousand (18,000) but less than twenty-five thousand (25,000); or

(B) a township having a population of more than nine thousand (9,000) but less than fifteen thousand (15,000).

(c) ADVISORY. Notwithstanding section 1210 of this chapter, a plan commission described in subsection (b) shall have nine (9) members as follows:

(1) Four (4) members who are residents of the municipality, to be appointed for four (4) year terms by the executive of the municipality.

(2) Three (3) members who are residents of the municipality, to be appointed for four (4) year terms by the legislative body of the municipality.

(3) Two (2) members who are residents of the township, to be appointed for four (4) year terms by the township executive with

the approval of the township legislative body.

(d) If a municipality annexes the area in which a member appointed by a township under subsection (c)(3) resides, the member shall complete the remainder of the member's unexpired term.

~~(d)~~ **(e)** The joinder agreement expires if the municipality annexes the entire area of a township described in subsection (b)(2).

~~(e)~~ **(f)** A joinder agreement under this section may be terminated if:

(1) the municipality adopts an ordinance terminating the joinder agreement;

(2) before adopting the ordinance under subdivision (1), the municipality conducts a public hearing on the issue of terminating the joinder agreement; and

(3) the executive of the municipality provides written notice to the township executive of the township subject to the joinder agreement that states the reason for the municipality's termination of the joinder agreement.

SECTION 14. IC 36-7-22-3, AS AMENDED BY P.L.131-2008, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "economic improvement project" means the following:

(1) Planning or managing development or improvement activities.

(2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).

(3) Promoting commercial activity or public events.

(4) Supporting business recruitment and development.

(5) Providing security for public areas.

(6) Acquiring, constructing, or maintaining parking facilities.

(7) **Developing,** constructing, rehabilitating, or repairing residential property, including improvements related to the **structure and** habitability of the **public and private** residential property.

(8) An economic development facility or redevelopment project established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1.

SECTION 15. IC 36-7-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** An ordinance

adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.

(b) Property that is:

(1) located within the district; and

(2) otherwise exempt from property taxation;

is not exempt from special assessments unless the property is specifically exempted from special assessments in the manner provided by this chapter.

SECTION 16. IC 36-7-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a)** An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district.

(b) The economic improvement board of a district consisting of property belonging to only one (1) property owner must include the property owner and at least one (1) other member who is selected by the property owner.

SECTION 17. IC 36-7-22-12, AS AMENDED BY P.L.131-2008, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed assessment;

(2) state that the proposed assessment on each parcel of real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the assessment may be filed;

(4) set forth the time and place where the board will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or

decrease, or leave unchanged, the assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the assessments exceeds the amount needed, the board shall make a prorated reduction in each assessment.

(f) Except as provided in section 13 of this chapter, the signing of the assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor ~~constitutes~~ **constitute** a final and conclusive determination of the benefits that are assessed.

(g) Each economic improvement district assessment is:

(1) included within the definition of property taxation under IC 6-1.1-1-14 **for purposes of applying Section 164 of the Internal Revenue Code to the determination of taxable income;**

(2) collected for the general public welfare; and

~~(2)~~ **(3)** a lien on the real property that is assessed in the economic improvement district.

~~The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.~~

(h) An ~~economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section 164 of the Internal Revenue Code to the determination of adjusted gross income. However, an~~ economic improvement district assessment paid by a property ~~tax~~ owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.

(i) The board shall certify to the county auditor the schedule of assessments of benefits.

SECTION 18. IC 36-7-22-22, AS ADDED BY P.L.131-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. **(a)** The board may:

(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or

(2) issue revenue bonds;

to finance an economic improvement project.

(b) Bonds may be issued for an economic improvement project by a commission established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1.

(c) Notwithstanding any other law, a taxing unit that expects to receive an economic benefit from an economic improvement district project under this chapter may pledge special assessments and any legally available funds for the payment of bonds or lease rentals to finance an economic improvement project, an economic development facility, or a redevelopment project established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1. The pledge does not create a debt of the pledging taxing unit under the Constitution of the State of Indiana.

SECTION 19. IC 36-7-31.3-9, AS AMENDED BY P.L.214-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

~~(1)~~ ~~except~~ ~~as provided~~ ~~in subdivision~~ ~~(2)~~ ~~before July 1, 1999,~~ ~~or~~

~~(2)~~ **(1)** before January 1, 2005, in the case of:

(A) a second class city; or

(B) the city of Marion;

(2) before January 1, 2010, in the case of the city of Westfield; or

(3) before July 1, 1999, if subdivisions (1) and (2) do not apply;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. Before ~~May 15, 2005,~~ **January 1, 2010,** a tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. After ~~May 14, 2005,~~ **December 31, 2009,** a tax area may not be changed and the terms governing a tax area may not be revised. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in: ~~a city having a population of:~~

(A) **a city having a population of** more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); ~~or~~

(B) **a city having a population of** more than ninety thousand (90,000) but less than one hundred five thousand (105,000); **or**

(C) the city of Westfield;

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 20. IC 36-7-31.3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports and convention development area fund established for the city or county. The allocation provision must apply to the entire tax area. ~~The~~ **A** resolution **adopted before May 15, 2005,** must provide the tax area terminates not later than December 31, 2027. **A resolution adopted after May 14, 2005, and before January 1, 2010, must provide that the tax area terminates not later than December 31, 2040.**

(b) In addition to subsection (a), all of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) The total amount of state revenue captured by ~~the~~ **a** tax area **established before May 15, 2005,** may not exceed five dollars ($5) per resident of the city or county per year for twenty (20) consecutive years.

(d) The total amount of state revenue captured by a tax area established after May 14, 2005, and before January 1, 2010, may not exceed fifty percent (50%) of the state revenue generated in the tax area for each state fiscal year ending after the date on which the tax area is established and before the date on which the tax area terminates.

~~(d)~~ **(e)** The resolution establishing the tax area must designate the facility or proposed facility and the facility site for which the tax area is established.

~~(e)~~ **(f)** The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 21. IC 36-7-31.3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for the following:

(1) Except in a tax area in: ~~a city having a population of:~~

(A) **a city having a population of** more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); ~~or~~

(B) **a city having a population of** more than ninety thousand (90,000) but less than one hundred five thousand (105,000); **or**

(C) the city of Westfield;

a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used by a professional sports franchise for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(2) of this

chapter.

(2) In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.

(3) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(1) or 8(a)(2) of this chapter.

(4) The financing or refinancing of a capital improvement described in subdivision (1), (2), or (3) or the payment of lease payments for a capital improvement described in subdivision (1), (2), or (3).

SECTION 22. IC 36-7-31.3-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. The city of Westfield faces unique challenges in promoting economic development and fiscal sustainability for the following reasons:**

(1) The city of Westfield has an abundance of residential assessed value and, consequently, an acute need to diversify the city's tax base by seeking investment in nonresidential assessed value.

(2) The city of Westfield is located on:

(A) U.S. Highway 31; and

(B) the northern edge of the Indianapolis SMSA.

(3) The city of Westfield desires to promote economic development through tourism focused on family oriented sports and recreational activities.

(4) Two-thirds (2/3) of the population of the United States resides within reasonable proximity of the city of Westfield.

SECTION 23. IC 36-7-31.3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. This chapter expires December 31, ~~2027.~~ **2041.**

SECTION 24. IC 36-7-32-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.7. As used in this chapter, "supplemental distribution" refers to a distribution to a certified technology park under section 21.5 of this chapter.**

SECTION 25. IC 36-7-32-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. Before the first business day in October of each year, the department of state revenue shall calculate:

(1) the income tax incremental amount; ~~and~~

(2) the gross retail incremental amount; **and**

(3) the supplemental distribution amount;

for the preceding state fiscal year for each certified technology park designated under this chapter. **The calculations under this section must identify the income tax incremental amount and the gross retail incremental amount that are attributable to each business in the certified technology park.**

SECTION 26. IC 36-7-32-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.5. (a) This section applies to a certified technology park if:**

(1) a business operated in the certified technology park after the date the certified technology park was designated under section 11 of this chapter; and

(2) the business ceased operations in the certified technology park after June 30, 2006.

(b) As used in this section, "business" refers to a business described in subsection (a).

(c) The department of state revenue shall determine the income tax incremental amount and the gross retail incremental amount for a certified technology park that are attributable to the last full state fiscal year in which a business operated in the certified technology park.

(d) In the later of:

(1) the state fiscal year beginning July 1, 2009; or

(2) the state fiscal year immediately following the last full state fiscal year in which a business operated in the certified technology park;

and in each of the subsequent four (4) state fiscal years, the department of state revenue shall determine the income tax incremental amount and the gross retail incremental amount that were not paid to the certified technology park but would have been attributable to the certified technology park if the business had continued to operate in the certified technology park for the full state fiscal year.

(e) To the extent possible, the department of state revenue shall trace the operations of a business to the place or places in Indiana

(if any) where the business relocates after terminating operations in the certified technology park and compute the state gross retail and use taxes that are remitted under IC 6-2.5 by the business and the aggregate amount of taxes paid by employees of the business as if the business were still located in the certified technology park. The department of state revenue shall treat an entity as the same business to the extent that the business continues to conduct operations in the same business segment, even if the business acquires new owners, changes its legal or organizational structure, or operates in more than one (1) location. Only the operations of the business in Indiana shall be considered in the calculation under subsection (d). If accurate and complete information is not available at the time a determination is made, the department of state revenue may use reasonable estimates to make the determination required by subsection (d).

(f) The lesser of the amount determined under subsection (c) or (d) shall be deposited in the incremental tax financing fund for the certified technology park as a supplemental distribution in the later of:

(1) the state fiscal year beginning July 1, 2009; or

(2) the state fiscal year immediately following the last full state fiscal year in which a business operated in the certified technology park;

and in each of the subsequent four (4) state fiscal years. The deposit shall be distributed to the redevelopment commission for the certified technology park at the same time that income tax incremental amounts and the gross retail incremental amounts for the same state fiscal year are distributed. However, a supplemental distribution under this subsection shall be reduced to the extent that the supplemental distribution would result in total distributions to the certified technology park that exceed the amount specified in section 22(c) of this chapter.

(g) There is annually appropriated a sufficient amount from the state general fund to make the supplemental distributions required by this section.

SECTION 27. IC 36-7-32-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be

deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(3) The amount of a supplemental distribution to the certified technology park.

(c) Not more than a total of five million dollars ($5,000,000) may be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.

SECTION 28. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on horse racing established by this SECTION.**

(b) There is established the interim study committee on horse racing. The committee shall study issues concerning live pari-mutuel horse racing, including the following:

(1) The allocation of stalls at racetracks.

(2) The distribution of money received by the Indiana horse racing commission.

(3) Racing opportunities for Indiana bred horses.

(4) Injuries and equine mortality.

(5) Drug testing.

(6) Breed development.

(7) Whether the Indiana horse racing commission should remain an independent agency or be placed within the Indiana state department of agriculture.

(8) The allocation of money for purses.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including a final report.

(e) The committee shall submit a final report of the committee's findings and recommendations to the legislative council in an electronic format under IC 5-14-6 before November 1, 2009.

(f) This SECTION expires December 1, 2009.

SECTION 29. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] **(a) IC 4-35-7-12, as amended by this act, applies to:**

(1) adjusted gross receipts (as defined in IC 4-35-2-2) received by a licensee after December 31, 2008;

(2) amounts that are distributed to promote horses and horse racing under IC 4-35-7-12(b)(3) after January 31, 2009; and

(3) racing meetings that begin after December 31, 2008.

(b) As used in this SECTION, "fund" refers to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(c) As used in this SECTION, "licensee" has the meaning set forth in IC 4-35-2-7.

(d) Distributions made before May 1, 2009, must be reconciled with the distribution amounts required under IC 4-35-7-12, as amended by this act. A licensee shall supplement each distribution to the fund under IC 4-35-7-12(d)(1)(B), as amended by this act, that is made after April 30, 2009, and before November 1, 2010, with an additional amount that is equal to one-sixth (1/6) of the difference between:

(1) the total amount of distributions to the fund for February, March, and April 2009 that are required by IC 4-35-7-12(d)(1)(B), as amended by this act; minus

(2) the total amount of distributions that were actually made to the fund in February, March, and April 2009.

(e) This SECTION expires May 1, 2010.

SECTION 30. [EFFECTIVE UPON PASSAGE] **(a) IC 6-1.1-20.3-7, as amended by this act, applies both to:**

(1) petitions submitted to the distressed unit appeal board under IC 6-1.1-20.3-6 that are pending before the board on the effective date of this SECTION; and

(2) petitions submitted to the distressed unit appeal board under IC 6-1.1-20.3-6 on or after the effective date of this

SECTION.

(b) This subsection applies to a petition that was submitted to the distressed unit appeal board under IC 6-1.1-20.3-6 on or before March 1, 2009, and that is pending before the distressed unit appeal board on April 15, 2009. On the effective date of this SECTION, the distressed political subdivision submitting the petition shall be treated as entitled to the relief requested in the petition to the same extent as if the distressed unit appeal board had authorized the relief in a final determination under IC 6-1.1-20.3 before April 16, 2009. For purposes of IC 6-1.1-20.3, the financial plan included with the petition shall be treated as being established by the distressed unit appeal board and agreed to by the fiscal body of the distressed political subdivision submitting the petition.

(c) This SECTION expires January 1, 2011.

SECTION 31. P.L.131-2008, SECTION 70, IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 32. **An emergency is declared for this act.**

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 448, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-10-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 44. (a) As used in this section, "designating body" means:**

(1) in the case of a county, the fiscal body of the county; or

(2) in the case of a municipality located in a county that does not contain a consolidated city, the fiscal body of the municipality.

(b) As used in this section, "eligible business" means an entity that meets the following requirements:

(1) The entity is engaged in a business that operates one (1) or more facilities dedicated to computing, networking, or data storage activities.

(2) The entity is located in a facility or data center in Indiana that contains in the aggregate at least ten million dollars ($10,000,000) in:

(A) personal property investment; and

(B) real property investment;

that is made after June 30, 2009.

(3) The average employee wage of the entity is at least one hundred twenty-five percent (125%) of the county average wage for each county in which the entity conducts business operations.

(c) As used in this section, "enterprise information technology equipment" means the following:

(1) Hardware supporting computing, networking, or data storage function, including servers and routers.

(2) Networking systems having an industry designation as equipment within the "enterprise" or "data center" class of networking systems that support the computing, networking, or data storage functions.

(3) Generators and other equipment used to ensure an uninterrupted power supply to equipment described in subdivision (1) or (2).

The term does not include computer hardware designed for single user, workstation, or departmental level use.

(d) As used in this section, "fiscal body" has the meaning set forth in IC 36-1-2-6.

(e) As used in this section, "municipality" has the meaning set forth in IC 36-1-2-11.

(f) Before adopting a final resolution under subsection (g) to provide a property tax exemption, a designating body must first adopt a declaratory resolution provisionally specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. The designating body shall file a declaratory resolution adopted under this subsection with the county assessor. After a designating body adopts a declaratory resolution specifying that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation, the designating body shall publish notice of the adoption and the substance of the declaratory resolution in accordance with IC 5-3-1 and file a copy of the notice and the declaratory resolution with each taxing unit in the county. The notice must specify a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the notice and the declaratory resolution with the officers of the taxing units who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date for the public hearing. After the designating body considers the testimony presented at the public hearing, the designating body may adopt a second and final resolution under subsection (g). The second and final resolution under subsection (g) may modify, confirm, or rescind the declaratory resolution.

(g) Before January 1, 2013, a designating body may after following the procedures of subsection (f) adopt a final resolution providing that enterprise information technology equipment owned by a particular eligible business is exempt from property taxation. In the case of a designating body that is a county fiscal body, the exemption applies only to enterprise information technology equipment that is located in unincorporated territory of the county. In the case of a designating body that is a municipal fiscal body, the exemption applies only to enterprise information technology equipment that is located in the municipality. The property tax exemption applies to the enterprise information technology equipment only if the designating body and the eligible business enter into an agreement concerning the property tax exemption. The agreement must specify the duration of the

property tax exemption. The agreement may specify that if the ownership of enterprise information technology equipment is transferred by an eligible business, the transferee is entitled to the property tax exemption on the same terms as the transferor. If a designating body adopts a final resolution under this subsection and enters into an agreement with an eligible business, the enterprise information technology equipment owned by the eligible business is exempt from property taxation as provided in the resolution and the agreement.

(h) If a designating body adopts a final resolution and enters into an agreement under subsection (g) to provide a property tax exemption, the property tax exemption continues for the period specified in the agreement, notwithstanding the January 1, 2013, deadline to adopt a final resolution under subsection (g).".

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 448 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

MOSES, Chair

Committee Vote: yeas 11, nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred Engrossed Senate Bill 448, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-35-7-12, AS AMENDED BY P.L.146-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 12. (a) The Indiana horse racing commission shall enforce the requirements of this section.

(b) Except as provided in subsections (j) and (k), a licensee shall before the fifteenth day of each month devote to the gaming integrity fund, horse racing purses, and to horsemen's associations an amount equal to fifteen percent (15%) of the adjusted gross receipts of the slot machine wagering from the previous month at the licensee's racetrack. The Indiana horse racing commission may not use any of this money for any administrative purpose or other purpose of the Indiana horse racing commission, and the entire amount of the money shall be distributed as provided in this section. A licensee shall pay the first two hundred fifty thousand dollars ($250,000) distributed under this section in a state fiscal year to the commission for deposit in the gaming integrity fund established by IC 4-35-8.7-3. After this money has been distributed to the commission, a licensee shall distribute the remaining money devoted to horse racing purses and to horsemen's associations under this subsection as follows:

(1) Five-tenths percent (0.5%) shall be transferred to horsemen's associations for equine promotion or welfare according to the ratios specified in subsection (e).

(2) Two and five-tenths percent (2.5%) shall be transferred to horsemen's associations for backside benevolence according to the ratios specified in subsection (e).

(3) Ninety-seven percent (97%) shall be distributed to promote horses and horse racing as provided in subsection (d).

(c) A horsemen's association shall expend the amounts distributed to the horsemen's association under subsection (b)(1) through (b)(2) for a purpose promoting the equine industry or equine welfare or for a benevolent purpose that the horsemen's association determines is in the best interests of horse racing in Indiana for the breed represented by the

horsemen's association. Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(d) A licensee shall distribute the amounts described in subsection (b)(3) as follows:

(1) Forty-six percent (46%) for thoroughbred purposes as follows:

(A) ~~Sixty~~ **Forty** percent ~~(60%)~~ **(40%)** for the following purposes:

(i) Ninety-seven percent (97%) for thoroughbred purses.

(ii) Two and four-tenths percent (2.4%) to the horsemen's association representing thoroughbred owners and trainers.

(iii) Six-tenths percent (0.6%) to the horsemen's association representing thoroughbred owners and breeders.

(B) ~~Forty~~ **Sixty** percent ~~(40%)~~ **(60%)** to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(2) Forty-six percent (46%) for standardbred purposes as follows:

(A) Fifty percent (50%) for the following purposes:

(i) Ninety-six and five-tenths percent (96.5%) for standardbred purses.

(ii) Three and five-tenths percent (3.5%) to the horsemen's association representing standardbred owners and trainers.

(B) Fifty percent (50%) to the breed development fund established for standardbreds under IC 4-31-11-10.

(3) Eight percent (8%) for quarter horse purposes as follows:

(A) Seventy percent (70%) for the following purposes:

(i) Ninety-five percent (95%) for quarter horse purses.

(ii) Five percent (5%) to the horsemen's association representing quarter horse owners and trainers.

(B) Thirty percent (30%) to the breed development fund established for quarter horses under IC 4-31-11-10.

Expenditures under this subsection are subject to the regulatory requirements of subsection (f).

(e) Money distributed under subsection (b)(1) and (b)(2) shall be allocated as follows:

(1) Forty-six percent (46%) to the horsemen's association representing thoroughbred owners and trainers.

(2) Forty-six percent (46%) to the horsemen's association representing standardbred owners and trainers.

(3) Eight percent (8%) to the horsemen's association representing quarter horse owners and trainers.

(f) Money distributed under this section may not be expended unless the expenditure is for a purpose authorized in this section and is either

for a purpose promoting the equine industry or equine welfare or is for a benevolent purpose that is in the best interests of horse racing in Indiana or the necessary expenditures for the operations of the horsemen's association required to implement and fulfill the purposes of this section. The Indiana horse racing commission may review any expenditure of money distributed under this section to ensure that the requirements of this section are satisfied. The Indiana horse racing commission shall adopt rules concerning the review and oversight of money distributed under this section and shall adopt rules concerning the enforcement of this section. The following apply to a horsemen's association receiving a distribution of money under this section:

(1) The horsemen's association must annually file a report with the Indiana horse racing commission concerning the use of the money by the horsemen's association. The report must include information as required by the commission.

(2) The horsemen's association must register with the Indiana horse racing commission.

(g) The commission shall provide the Indiana horse racing commission with the information necessary to enforce this section.

(h) The Indiana horse racing commission shall investigate any complaint that a licensee has failed to comply with the horse racing purse requirements set forth in this section. If, after notice and a hearing, the Indiana horse racing commission finds that a licensee has failed to comply with the purse requirements set forth in this section, the Indiana horse racing commission may:

(1) issue a warning to the licensee;

(2) impose a civil penalty that may not exceed one million dollars ($1,000,000); or

(3) suspend a meeting permit issued under IC 4-31-5 to conduct a pari-mutuel wagering horse racing meeting in Indiana.

(i) A civil penalty collected under this section must be deposited in the state general fund.

(j) For a state fiscal year beginning after June 30, 2008, and ending before July 1, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) eighty-five million dollars ($85,000,000).

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for

deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.

(k) For a state fiscal year beginning after June 30, 2009, the amount of money dedicated to the purposes described in subsection (b) for a particular state fiscal year is equal to the lesser of:

(1) fifteen percent (15%) of the licensee's adjusted gross receipts for the state fiscal year; or

(2) the amount dedicated to the purposes described in subsection (b) in the previous state fiscal year increased by a percentage that does not exceed the percent of increase in the United States Department of Labor Consumer Price Index during the year preceding the year in which an increase is established.

If fifteen percent (15%) of a licensee's adjusted gross receipts for the state fiscal year exceeds the amount specified in subdivision (2), the licensee shall transfer the amount of the excess to the commission for deposit in the state general fund. The licensee shall adjust the transfers required under this section in the final month of the state fiscal year to comply with the requirements of this subsection.".

Page 3, after line 33, begin a new paragraph and insert:

"SECTION 3. IC 6-2.5-5-8, AS AMENDED BY P.L.224-2007, SECTION 53, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 8. (a) As used in this section, "new motor vehicle" has the meaning set forth in IC 9-13-2-111.

(b) Transactions involving tangible personal property other than a new motor vehicle are exempt from the state gross retail tax if the person acquiring the property acquires it for resale, rental, or leasing in the ordinary course of the person's business without changing the form of the property.

(c) The following transactions involving a new motor vehicle are exempt from the state gross retail tax:

(1) A transaction in which a person that has a franchise in effect at the time of the transaction for the vehicle trade name, trade or service mark, or related characteristics acquires a new motor vehicle for resale, rental, or leasing in the ordinary course of the person's business.

(2) A transaction in which a person that is a franchisee appointed by a manufacturer or converter manufacturer licensed under IC 9-23 acquires a new motor vehicle that has at least one (1) trade name, service mark, or related characteristic as a result of modification or further manufacture by the manufacturer or

converter manufacturer for resale, rental, or leasing in the ordinary course of the person's business.

(3) A transaction in which a person acquires a new motor vehicle for rental or leasing in the ordinary course of the person's business.

(d) The rental or leasing of accommodations to a promoter by a political subdivision (including a capital improvement board) or the state fair commission is not exempt from the state gross retail tax, if the rental or leasing of the property by the promoter is exempt under IC 6-2.5-4-4.

(e) This subsection applies only **to aircraft acquired** after June 30, 2008. **Except as provided in subsection (f),** a transaction in which a person acquires an aircraft for rental or leasing in the ordinary course of the person's business is not exempt from the state gross retail tax unless the person establishes, under guidelines adopted by the department in the manner provided in IC 4-22-2-37.1 for the adoption of emergency rules, that the annual amount of the **gross** lease revenue derived from leasing **or rental of** the aircraft is equal to or greater than

~~(1) ten percent (10%) of the greater of the original cost or~~ the book value of the aircraft, ~~if the original cost of the aircraft was less than one million dollars ($1,000,000);~~ or

~~(2)~~ seven and five-tenths percent (7.5%) of:

(1) the greater of the ~~original cost or the~~ book value of the aircraft, ~~if the original cost of the aircraft was at least one million dollars ($1,000,000).~~ **as published in the Vref Aircraft Value Reference guide for the aircraft; or**

(2) the net acquisition price for the aircraft.

However, if a person acquires an aircraft for less than the Vref Aircraft Value reference guide book value, the person may appeal to the department for a lower lease or rental threshold equal to the actual acquisition price paid if the person demonstrates that the transaction was completed in a commercially reasonable manner based on the aircraft's age, condition, and equipment. The department may request that the person submit to the department supporting documents showing that the aircraft is available for general public lease or rental, copies of business and aircraft insurance policies, and any other documents that will assist the department in determining whether an aircraft is exempt from state gross retail tax under this subsection.

(f) The department shall not assess state gross retail or use taxes on an acquisition under subsection (e) if the person does not meet the minimum lease or rental requirements of subsection (e) in a tax

year if the person is unable to meet the lease or rental requirements because of:

(1) economic conditions;

(2) shortage of key personnel;

(3) weather;

(4) the aircraft being out of service for extended maintenance;

(5) regulatory requirements of the Federal Aviation Administration; or

(6) other conditions acceptable to the department.

(g) A person is required to meet the requirements of subsection (e) until the aircraft has generated sales tax on rental or lease income:

(1) in an amount equal to the amount of the original sales tax exemption; or

(2) for a period of not more than thirteen (13) years.

If the aircraft is sold by the person before meeting the requirements of this section and before the sale the aircraft was exempt from gross retail tax under subsection (e), the sale of the aircraft must not result in the assessment or collection of gross retail tax for the period from the date of acquisition of the aircraft by the person to the date of the sale of the aircraft by the person.

(h) A person shall remit gross retail tax on taxable lease and rental transactions under subsection (e) regardless of how long the aircraft is leased or rented.

(i) This subsection applies only to an aircraft acquired after December 31, 2007. A transaction in which a person acquires an aircraft to rent or lease to another person predominantly for use in public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.) by the other person or an affiliate of the other person is exempt from the state gross retail tax. The department may not require a person to meet the revenue thresholds applicable to an exemption under subsection (e) with respect to the person's leasing or rental of the aircraft in order to receive or maintain an exemption under this subsection. In order to maintain an exemption under this subsection, the department may require only that the person submit annual reports showing that the aircraft is predominantly used to provide public transportation under Federal Aviation Regulation Part 135 (14 CFR 135.1 et seq.).

(j) The exemptions allowed under subsections (e) and (i) apply regardless of the relationship, if any, between the person or lessor and the lessee or renter of the aircraft.

SECTION 4. IC 6-3.1-31.9-1, AS ADDED BY P.L.223-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "alternative fuel" means:

(1) methanol, denatured ethanol, and other alcohols;

(2) mixtures containing eighty-five percent (85%) or more by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuel;

(3) natural gas;

(4) liquefied petroleum gas;

(5) hydrogen;

(6) coal-derived liquid fuels;

(7) non-alcohol fuels derived from biological material;

(8) P-Series fuels; ~~or~~

(9) electricity; **or**

(10) biodiesel (as defined in IC 6-3.1-27-1).

SECTION 5. IC 14-8-2-72.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 72.5. "District forester", for purposes of IC 14-23-10, means an employee of the department who:**

(1) holds a bachelor of science degree in forest management or a closely related forestry curriculum from a college or university accredited by the Society of American Foresters; and

(2) is responsible for the administration of IC 6-1.1-6 within designated counties.

SECTION 6. IC 14-8-2-266.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]: **Sec. 266.9. "State staffing table", for purposes of IC 14-23-10, means a position classification plan and salary and wage schedule adopted by the state personnel department under IC 4-15-1.8-7.**

SECTION 7. IC 14-23-10 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008 (RETROACTIVE)]:

Chapter 10. Compensation of District Foresters

Sec. 1. This chapter applies only to salaries paid for pay periods beginning after June 30, 2008.

Sec. 2. For pay periods beginning after June 30, 2008, the state personnel department shall reclassify the job category and skill level of the position of district forester as follows:

Job Category Executive, Scientific, and Medical (ESM) Skill Level 7.

Sec. 3. The state personnel department shall apply the years of experience accrued by a district forester under the job category and skill level that applied to the district forester before the effective date of the reclassification required by this chapter to the district forester's new classification when computing the salary due to the district forester under the new classification.

Sec. 4. Notwithstanding the salary and wage schedule applying to a district forester on July 1, 2008, under the state staffing table, a district forester is entitled to back pay in an amount equal to the difference between:

(1) the amount of salary that would have been paid to the district forester for the period beginning July 1, 2008, and ending June 30, 2009, if the district forester's salary had been computed in accordance with the reclassification of the district forester's job category and skill level required by section 2 of this chapter; minus

(2) the salary actually paid to the district forester for the period beginning July 1, 2008, and ending June 30, 2009.

SECTION 8. IC 36-7-22-3, AS AMENDED BY P.L.131-2008, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. As used in this chapter, "economic improvement project" means the following:

(1) Planning or managing development or improvement activities.

(2) Designing, landscaping, beautifying, constructing, or maintaining public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way).

(3) Promoting commercial activity or public events.

(4) Supporting business recruitment and development.

(5) Providing security for public areas.

(6) Acquiring, constructing, or maintaining parking facilities.

(7) **Developing,** constructing, rehabilitating, or repairing residential property, including improvements related to the **structure and** habitability of the **public and private** residential property.

(8) An economic development facility or redevelopment project established under IC 36-7-12, IC 36-7-14, or

IC 36-7-15.1.

SECTION 9. IC 36-7-22-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** An ordinance adopted under section 7 of this chapter may provide that businesses established within the district after the creation of the district are exempt from special assessments for a period not to exceed one (1) year.

(b) Property that is:

(1) located within the district; and

(2) otherwise exempt from property taxation;

is not exempt from special assessments unless the property is specifically exempted from special assessments in the manner provided by this chapter.

SECTION 10. IC 36-7-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. **(a)** An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district.

(b) The economic improvement board of a district consisting of property belonging to only one (1) property owner must include the property owner and at least one (1) other member who is selected by the property owner.

SECTION 11. IC 36-7-22-12, AS AMENDED BY P.L.131-2008, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed assessment;

(2) state that the proposed assessment on each parcel of real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the assessment may be filed;

(4) set forth the time and place where the board will hear any

owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the assessments exceeds the amount needed, the board shall make a prorated reduction in each assessment.

(f) Except as provided in section 13 of this chapter, the signing of the assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor ~~constitutes~~ **constitute** a final and conclusive determination of the benefits that are assessed.

(g) Each economic improvement district assessment is:

(1) included within the definition of property taxation under IC 6-1.1-1-14 **for purposes of applying Section 164 of the Internal Revenue Code to the determination of taxable income;**

(2) collected for the general public welfare; and

~~(2)~~ **(3)** a lien on the real property that is assessed in the economic improvement district.

~~The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.~~

(h) An ~~economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section 164 of the Internal Revenue Code to the determination of adjusted gross income. However, an~~ economic improvement district assessment paid by a property ~~tax~~ owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.

(i) The board shall certify to the county auditor the schedule of assessments of benefits.

SECTION 12. IC 36-7-22-22, AS ADDED BY P.L.131-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. **(a)** The board may:

(1) exercise of any of the powers of a unit under IC 36-7-12-18 or IC 36-7-12-18.5; or

(2) issue revenue bonds;

to finance an economic improvement project.

(b) Bonds may be issued for an economic improvement project by a commission established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1.

(c) Notwithstanding any other law, a taxing unit that expects to receive an economic benefit from an economic improvement district project under this chapter may pledge special assessments and any legally available funds for the payment of bonds or lease rentals to finance an economic improvement project, an economic development facility, or a redevelopment project established under IC 36-7-12, IC 36-7-14, or IC 36-7-15.1. The pledge does not create a debt of the pledging taxing unit under the Constitution of the State of Indiana.

SECTION 13. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the interim study committee on horse racing established by this SECTION.**

(b) There is established the interim study committee on horse racing. The committee shall study issues concerning live pari-mutuel horse racing, including the following:

(1) The allocation of stalls at racetracks.

(2) The distribution of money received by the Indiana horse racing commission.

(3) Racing opportunities for Indiana bred horses.

(4) Injuries and equine mortality.

(5) Drug testing.

(6) Breed development.

(7) Whether the Indiana horse racing commission should remain an independent agency or be placed within the Indiana state department of agriculture.

(8) The allocation of money for purses.

(c) The committee shall operate under the policies governing study committees adopted by the legislative council.

(d) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including a final report.

(e) The committee shall submit a final report of the committee's findings and recommendations to the legislative council in an electronic format under IC 5-14-6 before November 1, 2009.

(f) This SECTION expires December 1, 2009.

SECTION 14. [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)] **(a) IC 4-35-7-12, as amended by this act, applies to:**

(1) adjusted gross receipts (as defined in IC 4-35-2-2) received by a licensee after December 31, 2008;

(2) amounts that are distributed to promote horses and horse racing under IC 4-35-7-12(b)(3) after January 31, 2009; and

(3) racing meetings that begin after December 31, 2008.

(b) As used in this SECTION, "fund" refers to the breed development fund established for thoroughbreds under IC 4-31-11-10.

(c) As used in this SECTION, "licensee" has the meaning set forth in IC 4-35-2-7.

(d) Distributions made before May 1, 2009, must be reconciled with the distribution amounts required under IC 4-35-7-12, as amended by this act. A licensee shall supplement each distribution to the fund under IC 4-35-7-12(d)(1)(B), as amended by this act, that is made after April 30, 2009, and before November 1, 2010, with an additional amount that is equal to one-sixth (1/6) of the difference between:

(1) the total amount of distributions to the fund for February, March, and April 2009 that are required by IC 4-35-7-12(d)(1)(B), as amended by this act; minus

(2) the total amount of distributions that were actually made to the fund in February, March, and April 2009.

(e) This SECTION expires May 1, 2010.

SECTION 15. P.L.131-2008, SECTION 70, IS REPEALED [EFFECTIVE JULY 1, 2009].

SECTION 16. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to ESB 448 as printed April 7, 2009.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 2.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 6, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-12.1-2.5, AS AMENDED BY P.L.154-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) If a designating body finds that an area in its jurisdiction is an economic revitalization area, it shall either:

(1) prepare maps and plats that identify the area; or

(2) prepare a simplified description of the boundaries of the area by describing its location in relation to public ways, streams, or otherwise.

(b) After the compilation of the materials described in subsection (a), the designating body shall pass a resolution declaring the area an economic revitalization area. The resolution must contain a description of the affected area and be filed with the county assessor. A resolution adopted after June 30, 2000, may include a determination of the number of years a deduction under section 3, 4.5, or 4.8 of this chapter is allowed.

(c) After approval of a resolution under subsection (b), the designating body shall do the following:

(1) Publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1.

(2) File the following information with each taxing unit that has authority to levy property taxes in the geographic area where the economic revitalization area is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement containing substantially the same information as a statement of benefits filed with the designating body before the hearing required by this section under section 3, 4.5, or 4.8 of this chapter.

The notice must state that a description of the affected area is available and can be inspected in the county assessor's office. The notice must also name a date when the designating body will receive and hear all remonstrances and objections from interested persons. The designating body shall file the information required by subdivision (2) with the officers of the taxing unit who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 at least ten (10) days before the date of the public hearing. After considering the evidence, the designating body shall take final action determining whether the qualifications for an economic revitalization area have been met and confirming, modifying and confirming, or rescinding the resolution. **Except as**

provided in subsection (f), this determination is final except that an appeal may be taken and heard as provided under subsections (d) and (e).

(d) A person who filed a written remonstrance with the designating body under this section and who is aggrieved by the final action taken may, within ten (10) days after ~~that~~ **the** final action **of the designating body or the fiscal body under subsection (f),** initiate an appeal of that action by filing in the office of the clerk of the circuit or superior court a copy of the order of the designating body **or fiscal body** and the person's remonstrance against that order, together with the person's bond conditioned to pay the costs of the person's appeal if the appeal is determined against the person. The only ground of appeal that the court may hear is whether the proposed project will meet the qualifications of the economic revitalization area law. The burden of proof is on the appellant.

(e) An appeal under this section shall be promptly heard by the court without a jury. All remonstrances upon which an appeal has been taken shall be consolidated and heard and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal, and may confirm the final action of the designating body **or fiscal body** or sustain the appeal. The judgment of the court is final and conclusive, unless an appeal is taken as in other civil actions.

(f) A determination made under subsection (c) after June 30, 2009, by the designating body of a county containing a consolidated city must be approved or rejected by the county fiscal body if the resolution awards a deduction under section 3 of this chapter for the redevelopment or rehabilitation of real property. The decision of the county fiscal body to approve or reject the designating body's determination is final, except that an appeal may be taken and heard as provided under subsections (d) and (e).

SECTION 4. IC 6-1.1-12.1-3, AS AMENDED BY P.L.99-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) An applicant must provide a statement of benefits to the designating body. If the designating body requires information from the applicant for economic revitalization area status for use in making its decision about whether to designate an economic revitalization area, the applicant shall provide the completed statement of benefits form to the designating body before the hearing required by section 2.5(c) of this chapter. Otherwise, the statement of benefits form must be submitted to the designating body before the initiation of the redevelopment or rehabilitation for which the person desires to claim

a deduction under this chapter. The department of local government finance shall prescribe a form for the statement of benefits. The statement of benefits must include the following information:

(1) A description of the proposed redevelopment or rehabilitation.

(2) An estimate of the number of individuals who will be employed or whose employment will be retained by the person as a result of the redevelopment or rehabilitation and an estimate of the annual salaries of these individuals.

(3) An estimate of the value of the redevelopment or rehabilitation.

With the approval of the designating body, the statement of benefits may be incorporated in a designation application. Notwithstanding any other law, a statement of benefits is a public record that may be inspected and copied under IC 5-14-3-3.

(b) The designating body must review the statement of benefits required under subsection (a). **Subject to section 2.5(f) of this chapter,** the designating body shall determine whether an area should be designated an economic revitalization area or whether a deduction should be allowed, based on (and after it has made) the following findings:

(1) Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

(2) Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(3) Whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(4) Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

(5) Whether the totality of benefits is sufficient to justify the deduction.

A designating body may not designate an area an economic revitalization area or approve a deduction unless the findings required by this subsection are made in the affirmative.

(c) Except as provided in subsections (a) through (b), the owner of property which is located in an economic revitalization area is entitled to a deduction from the assessed value of the property. If the area is a residentially distressed area, the period is not more than five (5) years.

For all other economic revitalization areas designated before July 1, 2000, the period is three (3), six (6), or ten (10) years. For all economic revitalization areas designated after June 30, 2000, the period is the number of years determined under subsection (d). The owner is entitled to a deduction if:

(1) the property has been rehabilitated; or

(2) the property is located on real estate which has been redeveloped.

The owner is entitled to the deduction for the first year, and any successive year or years, in which an increase in assessed value resulting from the rehabilitation or redevelopment occurs and for the following years determined under subsection (d). However, property owners who had an area designated an urban development area pursuant to an application filed prior to January 1, 1979, are only entitled to a deduction for a five (5) year period. In addition, property owners who are entitled to a deduction under this chapter pursuant to an application filed after December 31, 1978, and before January 1, 1986, are entitled to a deduction for a ten (10) year period.

(d) For an area designated as an economic revitalization area after June 30, 2000, that is not a residentially distressed area, the designating body shall determine the number of years for which the property owner is entitled to a deduction. However, the deduction may not be allowed for more than ten (10) years. This determination shall be made:

(1) as part of the resolution adopted under section 2.5 of this chapter; or

(2) by resolution adopted within sixty (60) days after receiving a copy of a property owner's certified deduction application from the county auditor. A certified copy of the resolution shall be sent to the county auditor who shall make the deduction as provided in section 5 of this chapter.

A determination about the number of years the deduction is allowed that is made under subdivision (1) is final and may not be changed by following the procedure under subdivision (2).

(e) Except for deductions related to redevelopment or rehabilitation of real property in a county containing a consolidated city or a deduction related to redevelopment or rehabilitation of real property initiated before December 31, 1987, in areas designated as economic revitalization areas before that date, a deduction for the redevelopment or rehabilitation of real property may not be approved for the following facilities:

(1) Private or commercial golf course.

(2) Country club.

(3) Massage parlor.
(4) Tennis club.
(5) Skating facility (including roller skating, skateboarding, or ice skating).
(6) Racquet sport facility (including any handball or racquetball court).
(7) Hot tub facility.
(8) Suntan facility.
(9) Racetrack.
(10) Any facility the primary purpose of which is:
(A) retail food and beverage service;
(B) automobile sales or service; or
(C) other retail;
unless the facility is located in an economic development target area established under section 7 of this chapter.
(11) Residential, unless:
(A) the facility is a multifamily facility that contains at least twenty percent (20%) of the units available for use by low and moderate income individuals;
(B) the facility is located in an economic development target area established under section 7 of this chapter; or
(C) the area is designated as a residentially distressed area.
(12) A package liquor store that holds a liquor dealer's permit under IC 7.1-3-10 or any other entity that is required to operate under a license issued under IC 7.1. This subdivision does not apply to an applicant that:
(A) was eligible for tax abatement under this chapter before July 1, 1995;
(B) is described in IC 7.1-5-7-11; or
(C) operates a facility under:
(i) a beer wholesaler's permit under IC 7.1-3-3;
(ii) a liquor wholesaler's permit under IC 7.1-3-8; or
(iii) a wine wholesaler's permit under IC 7.1-3-13;
for which the applicant claims a deduction under this chapter.

(f) This subsection applies only to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). Notwithstanding subsection (e)(11), in a county subject to this subsection a designating body may, before September 1, 2000, approve a deduction under this chapter for the redevelopment or rehabilitation of real property consisting of residential facilities that are located in unincorporated areas of the county if the designating body makes a finding that the facilities are needed to serve any combination

of the following:

(1) Elderly persons who are predominately low-income or moderate-income persons.

(2) Persons with a disability.

A designating body may adopt an ordinance approving a deduction under this subsection only one (1) time. This subsection expires January 1, 2011.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

PRYOR

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 5, delete lines 6 through 11, begin a new line block indented and insert:

"**(2) The entity is located in a facility or data center in Indiana.**

(3) The entity invests in the aggregate at least ten million dollars ($10,000,000) in real and personal property in Indiana after June 30, 2009.".

Page 5, line 12, delete "(3)" and insert "**(4)**".

Page 5, between lines 32 and 33, begin a new paragraph and insert:

"**(f) As used in this section, "qualified property" means enterprise information technology equipment purchased after June 30, 2009.**".

Page 5, line 33, delete "(f)" and insert "**(g)**".

Page 5, line 33, delete "(g)" and insert "**(h)**".

Page 5, line 36, delete "enterprise information technology equipment" and insert "**qualified property**".

Page 5, line 40, delete "enterprise" and insert "**qualified property**".

Page 5, line 41, delete "information technology equipment".

Page 6, line 12, delete "(g)." and insert "**(h).**".

Page 6, line 13, delete "(g)" and insert "**(h)**".

Page 6, line 15, delete "(g)" and insert "**(h)**".

Page 6, line 16, delete "(f)" and insert "**(g)**".

Page 6, line 17, delete "enterprise information technology equipment" and insert "**qualified property**".

Page 6, line 20, delete "enterprise information" and insert "**qualified**

property".

Page 6, line 21, delete "technology equipment".

Page 6, line 23, delete "enterprise information" and insert "**qualified property**".

Page 6, line 24, delete "technology equipment".

Page 6, line 25, delete "enterprise information" and insert "**qualified property**".

Page 6, line 26, delete "technology equipment".

Page 6, line 30, delete "enterprise information technology equipment" and insert "**qualified property**".

Page 6, line 35, delete "enterprise information technology equipment" and insert "**qualified property**".

Page 6, line 38, delete "(h)" and insert "**(i)**".

Page 6, line 39, delete "(g)" and insert "**(h)**".

Page 6, line 42, delete "(g)." and insert "**(h).**".

(Reference is to ESB 448 as printed April 10, 2009.)

AVERY

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 13, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 13. IC 36-7-32-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 8.7. As used in this chapter, "supplemental distribution" refers to a distribution to a certified technology park under section 21.5 of this chapter.**

SECTION 14. IC 36-7-32-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 21. Before the first business day in October of each year, the department of state revenue shall calculate:

(1) the income tax incremental amount; ~~and~~

(2) the gross retail incremental amount; **and**

(3) the supplemental distribution amount;

for the preceding state fiscal year for each certified technology park designated under this chapter. **The calculations under this section must identify the income tax incremental amount and the gross retail incremental amount that are attributable to each business in**

the certified technology park.

SECTION 15. IC 36-7-32-21.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 21.5. (a) This section applies to a certified technology park if:**

(1) a business operated in the certified technology park after the date the certified technology park was designated under section 11 of this chapter; and

(2) the business ceased operations in the certified technology park after June 30, 2006.

(b) As used in this section, "business" refers to a business described in subsection (a).

(c) The department of state revenue shall determine the income tax incremental amount and the gross retail incremental amount for a certified technology park that are attributable to the last full state fiscal year in which a business operated in the certified technology park.

(d) In the later of:

(1) the state fiscal year beginning July 1, 2009; or

(2) the state fiscal year immediately following the last full state fiscal year in which a business operated in the certified technology park;

and in each of the subsequent four (4) state fiscal years, the department of state revenue shall determine the income tax incremental amount and the gross retail incremental amount that were not paid to the certified technology park but would have been attributable to the certified technology park if the business had continued to operate in the certified technology park for the full state fiscal year.

(e) To the extent possible, the department of state revenue shall trace the operations of a business to the place or places in Indiana (if any) where the business relocates after terminating operations in the certified technology park and compute the state gross retail and use taxes that are remitted under IC 6-2.5 by the business and the aggregate amount of taxes paid by employees of the business as if the business were still located in the certified technology park. The department of state revenue shall treat an entity as the same business to the extent that the business continues to conduct operations in the same business segment, even if the business acquires new owners, changes its legal or organizational structure, or operates in more than one (1) location. Only the operations of the business in Indiana shall be considered in the calculation under

subsection (d). If accurate and complete information is not available at the time a determination is made, the department of state revenue may use reasonable estimates to make the determination required by subsection (d).

(f) The lesser of the amount determined under subsection (c) or (d) shall be deposited in the incremental tax financing fund for the certified technology park as a supplemental distribution in the later of:

(1) the state fiscal year beginning July 1, 2009; or

(2) the state fiscal year immediately following the last full state fiscal year in which a business operated in the certified technology park;

and in each of the subsequent four (4) state fiscal years. The deposit shall be distributed to the redevelopment commission for the certified technology park at the same time that income tax incremental amounts and the gross retail incremental amounts for the same state fiscal year are distributed. However, a supplemental distribution under this subsection shall be reduced to the extent that the supplemental distribution would result in total distributions to the certified technology park that exceed the amount specified in section 22(c) of this chapter.

(g) There is annually appropriated a sufficient amount from the state general fund to make the supplemental distributions required by this section.

SECTION 16. IC 36-7-32-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 22. (a) The treasurer of state shall establish an incremental tax financing fund for each certified technology park designated under this chapter. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

(b) Subject to subsection (c), the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for a certified technology park under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the certified technology park, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the certified technology park.

(2) The aggregate amount of the following taxes paid by employees employed in the certified technology park with respect to wages earned for work in the certified technology park, until the amount deposited equals the income tax incremental amount:

(A) The adjusted gross income tax.

(B) The county adjusted gross income tax.

(C) The county option income tax.

(D) The county economic development income tax.

(3) The amount of a supplemental distribution to the certified technology park.

(c) Not more than a total of five million dollars ($5,000,000) may be deposited in a particular incremental tax financing fund for a certified technology park over the life of the certified technology park.

(d) On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a certified technology park shall be distributed to the redevelopment commission for deposit in the certified technology park fund established under section 23 of this chapter.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

RESKE

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 6, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-20.3-7, AS AMENDED BY P.L.146-2008, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If the fiscal body of a distressed political subdivision submits a petition under section 6 of this chapter, the board shall review the petition and assist in establishing a financial plan for the distressed political subdivision.

(b) In reviewing a petition submitted under section 6 of this chapter, the board:

(1) shall consider:

(A) the proposed financial plan;

(B) comparisons to similarly situated political subdivisions;

(C) the existing revenue and expenditures of political subdivisions in the county; and

(D) any other factor considered relevant by the board; **and**

(2) may establish subcommittees or temporarily appoint nonvoting members to the board to assist in the review.

(c) Subject to subsection (d), the board shall issue a final written

determination concerning a petition not more than thirty (30) days after the petition is submitted to the board under section 6 of this chapter. In the determination, the board may do any of the following:

(1) Deny the relief requested in the petition.

(2) Grant the relief requested in the petition in whole or in part and approve the financial plan included with the petition with or without modifications.

(3) Grant any other relief permitted under this chapter.

(d) The fiscal body of a distressed political subdivision may request in writing one (1) extension of the time in which the board may issue a final determination under this chapter. To be effective, an extension must be approved by the fiscal body before the elapse of the period being extended. If a fiscal body requests an extension under this subsection, the board has an additional thirty (30) days to make a final determination concerning a petition submitted under section 6 of this chapter.

(e) If the board fails to make a determination concerning a petition submitted under section 6 of this chapter within the time permitted under subsection (c), as extended (if applicable) under subsection (d), the distressed political subdivision shall be treated as entitled to the relief requested in the petition to the same extent as if the board had authorized the relief in a final determination. For purposes of this chapter, the financial plan included with the petition shall be treated as being established by the board and agreed to by the fiscal body of the distressed political subdivision submitting the petition.".

Page 15, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) IC 6-1.1-20.3-7, as amended by this act, applies both to:**

(1) petitions submitted to the distressed unit appeal board under IC 6-1.1-20.3-6 that are pending before the board on the effective date of this SECTION; and

(2) petitions submitted to the distressed unit appeal board under IC 6-1.1-20.3-6 on or after the effective date of this SECTION.

(b) This subsection applies to a petition that was submitted to the distressed unit appeal board under IC 6-1.1-20.3-6 on or before March 1, 2009, and that is pending before the distressed unit appeal board on April 15, 2009. On the effective date of this SECTION, the distressed political subdivision submitting the petition shall be treated as entitled to the relief requested in the

petition to the same extent as if the distressed unit appeal board had authorized the relief in a final determination under IC 6-1.1-20.3 before April 16, 2009. For purposes of IC 6-1.1-20.3, the financial plan included with the petition shall be treated as being established by the distressed unit appeal board and agreed to by the fiscal body of the distressed political subdivision submitting the petition.

(c) This SECTION expires January 1, 2011.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

CRAWFORD

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 13, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 13. IC 36-7-31.3-9, AS AMENDED BY P.L.214-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) A tax area must be initially established by resolution:

~~(1) except as provided in subdivision (2) before July 1, 1999, or~~

~~(2)~~ **(1)** before January 1, 2005, in the case of:

(A) a second class city; or

(B) the city of Marion;

(2) before January 1, 2010, in the case of the city of Westfield; or

(3) before July 1, 1999, if subdivisions (1) and (2) do not apply;

according to the procedures set forth for the establishment of an economic development area under IC 36-7-14. Before ~~May 15, 2005,~~ **January 1, 2010,** a tax area may be changed or the terms governing the tax area revised in the same manner as the establishment of the initial tax area. After ~~May 14, 2005,~~ **December 31, 2009,** a tax area may not be changed and the terms governing a tax area may not be revised. Only one (1) tax area may be created in each county.

(b) In establishing the tax area, the designating body must make the following findings instead of the findings required for the establishment of economic development areas:

(1) Except for a tax area in: ~~a city having a population of:~~

(A) **a city having a population of** more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); ~~or~~

(B) **a city having a population of** more than ninety thousand (90,000) but less than one hundred five thousand (105,000); **or**

(C) the city of Westfield;

there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used by a professional sports franchise for practice or competitive sporting events. A tax area to which this subdivision applies may also include a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(2) For a tax area in a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a) of this chapter.

(3) For a tax area in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), there is a capital improvement that will be undertaken or has been undertaken in the tax area for a facility that is used for any purpose specified in section 8(a)(2) of this chapter.

(4) The capital improvement that will be undertaken or that has been undertaken in the tax area will benefit the public health and welfare and will be of public utility and benefit.

(5) The capital improvement that will be undertaken or that has been undertaken in the tax area will protect or increase state and local tax bases and tax revenues.

(c) The tax area established under this chapter is a special taxing district authorized by the general assembly to enable the designating body to provide special benefits to taxpayers in the tax area by promoting economic development that is of public use and benefit.

SECTION 14. IC 36-7-31.3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A tax area must be established by resolution. A resolution establishing a tax area must provide for the allocation of covered taxes attributable to a taxable event or covered taxes earned in the tax area to the professional sports and convention development area fund established for the city or county. The allocation provision must apply to the entire tax area. ~~The~~ **A** resolution **adopted before May 15, 2005,** must provide the tax

area terminates not later than December 31, 2027. **A resolution adopted after May 14, 2005, and before January 1, 2010, must provide that the tax area terminates not later than December 31, 2040.**

(b) In addition to subsection (a), all of the salary, wages, bonuses, and other compensation that are:

(1) paid during a taxable year to a professional athlete for professional athletic services;

(2) taxable in Indiana; and

(3) earned in the tax area;

shall be allocated to the tax area if the professional athlete is a member of a team that plays the majority of the professional athletic events that the team plays in Indiana in the tax area.

(c) The total amount of state revenue captured by ~~the~~ **a** tax area **established before May 15, 2005,** may not exceed five dollars ($5) per resident of the city or county per year for twenty (20) consecutive years.

(d) The total amount of state revenue captured by a tax area established after May 14, 2005, and before January 1, 2010, may not exceed fifty percent (50%) of the state revenue generated in the tax area for each state fiscal year ending after the date on which the tax area is established and before the date on which the tax area terminates.

~~(d)~~ **(e)** The resolution establishing the tax area must designate the facility or proposed facility and the facility site for which the tax area is established.

~~(e)~~ **(f)** The department may adopt rules under IC 4-22-2 and guidelines to govern the allocation of covered taxes to a tax area.

SECTION 15. IC 36-7-31.3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The resolution establishing the tax area must designate the use of the funds. The funds are to be used only for the following:

(1) Except in a tax area in: ~~a city having a population of:~~

(A) **a city having a population of** more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000); ~~or~~

(B) **a city having a population of** more than ninety thousand (90,000) but less than one hundred five thousand (105,000); **or**

(C) the city of Westfield;

a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and

used by a professional sports franchise for practice or competitive sporting events. In a tax area to which this subdivision applies, funds may also be used for a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(2) of this chapter.

(2) In a city having a population of more than one hundred fifty thousand (150,000) but less than five hundred thousand (500,000), a capital improvement that will construct or equip a facility owned by the city, the county, a school corporation, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a) of this chapter.

(3) In a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000), a capital improvement that will construct or equip a facility owned by the city, the county, or a board under IC 36-9-13, IC 36-10-8, IC 36-10-10, or IC 36-10-11 and used for any purpose specified in section 8(a)(1) or 8(a)(2) of this chapter.

(4) The financing or refinancing of a capital improvement described in subdivision (1), (2), or (3) or the payment of lease payments for a capital improvement described in subdivision (1), (2), or (3).

SECTION 16. IC 36-7-31.3-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. The city of Westfield faces unique challenges in promoting economic development and fiscal sustainability for the following reasons:**

(1) The city of Westfield has an abundance of residential assessed value and, consequently, an acute need to diversify the city's tax base by seeking investment in nonresidential assessed value.

(2) The city of Westfield is located on:

(A) U.S. Highway 31; and

(B) the northern edge of the Indianapolis SMSA.

(3) The city of Westfield desires to promote economic development through tourism focused on family oriented sports and recreational activities.

(4) Two-thirds (2/3) of the population of the United States resides within reasonable proximity of the city of Westfield.

SECTION 17. IC 36-7-31.3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. This chapter

expires December 31, ~~2027.~~ **2041.**".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

TORR

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 10, after line 42, begin a new paragraph and insert:

"SECTION 8. IC 36-7-4-1210.5, AS AMENDED BY P.L.39-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1210.5. (a) ADVISORY. As used in this section, "municipality" refers to the most populous municipality in the jurisdiction of the plan commission.

(b) ADVISORY. This section applies to a plan commission operating under a joinder agreement:

(1) in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790); and

(2) containing:

(A) a township having a population of more than eighteen thousand (18,000) but less than twenty-five thousand (25,000); or

(B) a township having a population of more than nine thousand (9,000) but less than fifteen thousand (15,000).

(c) ADVISORY. Notwithstanding section 1210 of this chapter, a plan commission described in subsection (b) shall have nine (9) members as follows:

(1) Four (4) members who are residents of the municipality, to be appointed for four (4) year terms by the executive of the municipality.

(2) Three (3) members who are residents of the municipality, to be appointed for four (4) year terms by the legislative body of the municipality.

(3) Two (2) members who are residents of the township, to be appointed for four (4) year terms by the township executive with the approval of the township legislative body.

(d) If a municipality annexes the area in which a member appointed by a township under subsection (c)(3) resides, the

member shall complete the remainder of the member's unexpired term.

~~(d)~~ **(e)** The joinder agreement expires if the municipality annexes the entire area of a township described in subsection (b)(2).

~~(e)~~ **(f)** A joinder agreement under this section may be terminated if:

(1) the municipality adopts an ordinance terminating the joinder agreement;

(2) before adopting the ordinance under subdivision (1), the municipality conducts a public hearing on the issue of terminating the joinder agreement; and

(3) the executive of the municipality provides written notice to the township executive of the township subject to the joinder agreement that states the reason for the municipality's termination of the joinder agreement.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

TORR

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 6, after line 42, begin a new paragraph and insert:

"SECTION 3. IC 6-1.1-37-10, AS AMENDED BY P.L.3-2008, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)]: Sec. 10. (a) Except as provided in **subsection (i) and** sections 10.5 and 10.7 of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty shall be added to the unpaid portion in the year of the initial delinquency. **Except as provided in subsection (i),** the penalty is equal to an amount determined as follows:

(1) If:

(A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If:

(A) an installment of personal property taxes is completely

paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for a personal property tax return for property in the same taxing district;

the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(3) If subdivision (1) or (2) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates of the first and second installments in each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the principal amount of the delinquent taxes.

(d) If the department of local government finance determines that an emergency has occurred which precludes the mailing of the tax statement in any county at the time set forth in IC 6-1.1-22-8.1, the department shall establish by order a new date on which the installment of taxes in that county is due and no installment is delinquent if paid by the date so established.

(e) If any due date falls on a Saturday, a Sunday, a national legal holiday recognized by the federal government, or a statewide holiday, the act that must be performed by that date is timely if performed by the next succeeding day that is not a Saturday, a Sunday, or one (1) of those holidays.

(f) Subject to subsections (g) and (h), a payment to the county treasurer is considered to have been paid by the due date if the payment is:

(1) received on or before the due date by the county treasurer or a collecting agent appointed by the county treasurer;

(2) deposited in United States first class mail:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) postmarked by the United States Postal Service as mailed on or before the due date;

(3) deposited with a nationally recognized express parcel carrier and is:

(A) properly addressed to the principal office of the county treasurer; and

(B) verified by the express parcel carrier as:

(i) paid in full for final delivery; and

(ii) received by the express parcel carrier on or before the due date;

(4) deposited to be mailed through United States registered mail, United States certified mail, or United States certificate of mailing:

(A) properly addressed to the principal office of the county treasurer;

(B) with sufficient postage; and

(C) with a date of registration, certification, or certificate, as evidenced by any record authenticated by the United States Postal Service, on or before the due date; or

(5) made by an electronic funds transfer and the taxpayer's bank account is charged on or before the due date.

For purposes of this subsection, "postmarked" does not mean the date printed by a postage meter that affixes postage to the envelope or package containing a payment.

(g) If a payment is mailed through the United States mail and is physically received after the due date without a legible correct postmark, the person who mailed the payment is considered to have made the payment on or before the due date if the person can show by reasonable evidence that the payment was deposited in the United States mail on or before the due date.

(h) If a payment is sent via the United States mail or a nationally recognized express parcel carrier but is not received by the designated recipient, the person who sent the payment is considered to have made the payment on or before the due date if the person:

(1) can show by reasonable evidence that the payment was deposited in the United States mail, or with the express parcel carrier, on or before the due date; and

(2) makes a duplicate payment within thirty (30) days after the date the person is notified that the payment was not received.

(i) For property taxes first due and payable in 2009 with respect to a homestead (as defined in IC 6-1.1-12-37(a)(2)), the penalty

under subsection (a) is equal to an amount determined as follows:

(1) If:

(A) an installment of real property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous installment for the same parcel;

there is no penalty.

(2) If subdivision (1) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

BLANTON

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 448 be amended to read as follows:

Page 9, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 4. IC 6-2.5-5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. Transactions involving tangible personal property are exempt from the state gross retail tax, if:

(1) the property is:

(A) classified as central office equipment, station equipment or apparatus, station connection, wiring, or large private branch exchanges according to the uniform system of accounts which was adopted and prescribed for the utility by the Indiana utility regulatory commission; ~~or~~

(B) mobile telecommunications switching office equipment, radio or microwave transmitting or receiving equipment, including, without limitation, towers, antennae, and property that perform a function similar to the function performed by any of the property described in clause (A);

or

(C) a part of a national, regional, or local headend or similar facility operated by a person furnishing cable television services, cable radio services, satellite television

or radio services, or Internet access services; and

(2) the person acquiring the property:

(A) furnishes or sells intrastate telecommunication service in a retail transaction described in IC 6-2.5-4-6; **or**

(B) furnishes cable television or radio service or satellite television or radio service and uses the property to provide telecommunications services.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 448 as printed April 10, 2009.)

AUSTIN